THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO :2565 of 2006

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DATED: 20.02.2006

Between:

R. Prabhudas and another …..Petitioners

AND

1. Government of India, represented by its

Secretary, Ministryof Finance, New Delhi

and another

….Respondents

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO :2565 of 2006

ORDER:

Petitioners are aggrieved that the 2nd respondent-Bank is proceeding to initiate proceedings under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Act 2002).

The petitioners-couple obtained a housing loan from the 2nd respondent-Bank and were sanctioned credit facility to a tune of Rs.7,50,000/-. In security for the loan availed by the petitioners, they mortgaged their house property by deposit of title deeds. Admittedly, the loan is to be repaid in equated monthly instalments. On account of certain family circumstances, admittedly the petitioners defaulted in repayment of some of the instalments. As per the terms and conditions of the loan availed by the petitioners, on default in repayment of any of the instalments, the whole of the amounts due would forthwith become due and payable, at the discretion of the Bank.

As the petitioners defaulted in the repayment of the loan, proceedings under Section 13 of the Act, 2002 were initiated and the mortgaged property taken possession of. As the amounts due and payable to the Bank have not yet been cleared by the petitioners even after the initiation of proceedings under Section 13 of the Act, 2002, the 2nd respondent-Bank is alleged to be moving towards initiation of proceedings under Section 14 of the Act to take possession of the secured assets and dispose of the same, by approaching the Chief Metropolitan Magistrate or the District Magistrate as the case may be. It is this conduct of the 2nd respondent-Bank that is the subject matter of this writ petition.

The petitioners do not demonstrate why the 2nd respondent- Bank cannot or ought not to initiate proceedings under Section 14 of the Act, 2002. The singular plea of the petitioners is that they are impoverished and therefore, require further time and indulgence for repayment of the loan due to the 2nd respondent-Bank. Such a plea does not have an adjudicative disposition. No illegality in the conduct of the 2nd respondent-Bank is pointed out warranting interference under Article 226 of the Constitution. There are no merits in the writ petition.

The writ petition is dismissed at the admission stage. Under the circumstances, no orders as to costs.

20th February, 2006

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